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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,339	09/24/2003	Eric Baumbach	1248 US	4395

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 KEY SAFETY SYSTEMS, INC.
 PATENT DEPARTMENT
 5300 ALLEN K BREED HIGHWAY
 LAKELAND, FL 33811-1130

EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/668,339	Applicant(s) BAUMBACH, ERIC	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-11 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-11 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This Office Action is responsive to the amendment filed May 25, 2005. Claims 1, 3-5, 8-11, and 15-19 are now pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is dependent from claim 2; however claim 2 is canceled. Therefore, claim 3 is indefinite as it is unclear what is claimed. For the purposes of examination on the merits, it is assumed that claim 3 should depend from claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, 8-11 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohn (6,273,455) in view of Nariyasu (6,092,833).

Bohn discloses an air bag module comprising: an air bag (5, 6; see Figure 2) having four flaps (1d, 1e); an air bag inflator (inherently held in carrier 10) in communication with said air bag; and an air bag housing (10, 11) for storing the air bag and the inflator, said housing having at least one aperture (see 10c in Figure 4; see also 9 in Figure 5) to receive at least one flap; each flap has a first connection feature and the housing has a second connection feature (protrusion 8), the first connection feature secured to the second connection feature, wherein the first connection feature is a hole (7).

The air bag housing has an interior and exterior, the housing receiving the air bag within the interior (see Figures 3 and 5). The aperture is located between the opening from which the air bag deploys (through 11) and the bottom of the housing (see Figure 4). The second connection feature is spaced between the housing opening and the aperture (see Figure 4). The aperture comprises a slot (see 10c; Figure 4).

Bohn fails to show the second connection feature being a hook or the housing having four sides each having an aperture.

Nariyasu teaches an air bag (44) with flaps which are attached to a housing by hooks (68) extending from the housing. Nariyasu also shows the housing having connections to the flaps around four sides (see Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bohn with the teachings of Nariyasu to construct the protrusion as a hook in order to better hold the air bag and to construct the housing with connections and apertures around four sides in order to provide the air bag module for different sized embodiments such as a passenger side mounting.

Response to Arguments

5. Applicant's arguments filed May 25, 2005 have been fully considered but they are not persuasive.

Applicant argues the combination of Bohn and Nariyasu regarding prior claims 7 and 14. Applicant argues that Nariyasu shows the airbag fixedly connected to a retainer and that Applicant reduces the "two holding features to a hook that is clearly simpler and more secure." In response, it is submitted that Nariyasu in this regard is relied upon for the teaching of the fastening feature of a hook. In response to applicant's argument that Nariyasu uses bolts and nuts in addition to the hooks, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Nariyasu is used for a teaching of the hooks as an improvement of the protrusion of Bohn; the bodily incorporation of the entire retainer would not be required.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', with a long horizontal line extending to the right.

David Dunn
Primary Examiner
Art Unit 3616